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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,200	03/17/2004	Carl W. Schuler	104.102	3766
37408	7590	09/22/2006		
STEPHEN M. PATTON 7881 GROVE COURT EAST GERMANTOWN, TN 38138				
			EXAMINER BUMGARNER, MELBA N	
			ART UNIT 3732	PAPER NUMBER

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,200

Applicant(s)

SCHULTER ET AL.

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/28/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8, 10, 13, 17-20, and 22-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Limitations of claim 8 are incomplete for omitting essential steps to lead to the preamble of “[a] method of preparing mucosal tissue for an oral implant”. In claim 20, it is unclear as to when the step is performed. Recitation of “the first edentulous ridge portion” in claim 17, “the body” in claims 10 and 19, “the edentulous ridge” in claim 13, “the first edentulous ridge” in claim 21, “the tissue expander” in claims 23, and 24 lack sufficient antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Bonomo et al (4,798,205). Bonomo et al. disclose a method for implanting oral devices including the steps of making a first incision in the oral cavity, inserting a tissue contourer into the first incision overlying the edentulous ridge portion of the maxilla or mandible, expanding the tissue contourer, removing the tissue contourer and fixing an oral implant of grafting material to the edentulous ridge portion (column 2 line 47 – column 3 line 22). The method shows a

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second incision in the oral cavity prior to the step of removing the tissue contourer in the mucosal tissue overlying the issue contourer (column 8 line 2). The method shows waiting for the first incision to heal before expanding the tissue contourer as the expansion occurs over several days to weeks and incision would heal over such a time frame. The first incision is made at one end of the edentulous ridge portion. The method shows inserting a probe from the incision (column 2 line 62). The method shows inserting fluid into the contourer.

5. Claims 8, 10, 11, 13, and 15-19 are rejected as understood, under 35 U.S.C. 102(b) as being anticipated by Robert (5,695,338). Robert discloses a method for preparing mucosal tissue for an oral implant including making a first elongated incision in mucosal tissue, inserting a tissue contourer into the incision overlying the edentulous ridge portion of the maxilla or mandible, expanding the tissue contourer (figures 2-3). Robert disclosed a method for implanting oral devices including inserting a tissue contourer in a void beneath oral mucosal tissue, expanding the contourer by inserting a fluid, removing the contourer, and fixing an oral implant of grafting material and endosseous implant (figures 1-5).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9, 14, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robert in view of Fromovich et al. (6,758,673). Robert discloses a method that shows the limitations as described above and it is known in the art to suture incisions in oral surgery;

however, Fromovich et al. is used to teach suturing the incision on top of the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to suture the incision in order to prevent infection in view of Fromovich et al.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robert in view of Bonomo et al. Robert discloses a method that shows the limitations as described above; however, Robert does not show healing the incision before expanding the contourer. Bonomo et al. teach a method of healing the incision before expanding the contourer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to include the step of Bonomo et al. in order to avoid disorders that may arise such as necrosis, improper distraction, mucosal erosion in view of Bonomo et al.

9. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robert in view of Austad (5,005,591). Robert discloses a method that shows the limitations as described above; however, Robert does not show expanding the contourer by osmotic pressure. Austad teaches expanding a tissue contourer (expander) by osmotic pressure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to expand the contourer by osmotic pressure in order to use an expander that is bio-compatible in the event of a rupture of the contourer in view of Austad.

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robert in view of Jacoby (5,328,365). Robert discloses a method that shows the limitations as described above; however, Robert does not show inserting an endoscope into the void. Jacoby teaches a method including inserting an endoscope in dental tissue. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the step of inserting an

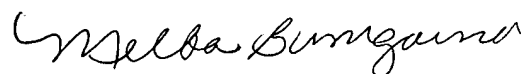
endoscope into the void in order to be able to visualize, monitor and assess the dental treatment procedure in view of Jacoby.

Conclusion

11. Any inquiry concerning this communication from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner
Primary Examiner